

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOHN RALSTON, JR.,	:	
Plaintiff	:	
v.	:	Case No. 3:10-cv-8-KRG-KAP
JEFFREY A. BEARD, <u>et al.</u> ,	:	
Defendants	:	

Report and Recommendation

Recommendation

Plaintiff John Ralston filed a one-page motion for new trial, docket no. 71, referred to me pursuant to 28 U.S.C.S 636(b)(3). The motion, taken as a motion for reconsideration under Fed.R.Civ.P. 59, should be denied.

Report

Plaintiff offers no reason to alter or amend the judgment other than my alleged bias against him because of his veteran status and ethnic/religious affiliation. It should not be necessary, but in this day when ad hominem attacks appear to be given the same stature as legitimate arguments, it may be necessary to say that the allegations of bias are without foundation. Not only am I not biased against Jews or Marines, I do not even know that plaintiff is Jewish or served in the Marine Corps. Strictly speaking, the only thing that plaintiff could accuse me of is bias against him on the basis of his claiming to be a Marine or Jewish. That allegation would be without foundation too.

Second, the only interaction plaintiff and I have ever had is through the course of litigation. If an adverse ruling,

without more, is ever accepted as evidence of bias against a party, then there is an end to the concept of the rule of law.

Third, Judge Gibson dismissed the complaint after de novo review. The only place that the alleged bias plaintiff detects could appear is in my orders and my Report and Recommendation; because Judge Gibson's review was de novo, any bias that plaintiff detects from my writings would not have been the cause of the judgment plaintiff seeks to amend.

Pursuant to 28 U.S.C. § 636(b)(1), the parties are given notice that they have fourteen days to serve and file written objections to this Report and Recommendation.

DATE: January 3, 2013

K. A. Pesto
Keith A. Pesto,
United States Magistrate Judge

Notice to counsel of record by ECF and by U.S. Mail to:

John W. Ralston, Jr. BC-6182
S.C.I. Laurel Highlands
P.O. Box 631
5706 Glades Pike
Somerset, PA 15501-0631